G. R. S. 59]

GFB—15,000-20-12-13

GENERAL AND REVENUE SECRETARIAT.

1913-14
(medical)

File No. 7-13.

Serial Nos. 11-14

Papers Filed.

Month March 1914

SUBJECT.

Resignation tendered by Sub asstt Surgeon A. Shiva Rao.

PREVIOUS REFERENCES.	LATER REFERENCES.
	Med, 115-16, 7-10.

Ethirajmanipan
6.5.14.

G. R. S. 59] GTB—15,000-20 12 13

GENERAL AND REVENUE SECRETARIAT.

1913-14
(medical)

File No. 7-13.

Serial Nos. 11-14

Papers Filed.

Month March 1914

SUBJECT.

Resignation tendered by Sub asstt Surgeon A. Lluia Rao.

PREVIOUS REFERENCES.	LATER REFERENCES.
	Med, 115-16, 7-10.

Ethelmanjan 6.5.14.

G.R.S. 11] 1913-14

GENERAL AND REVENUE SECRETARIAT.

(Med.)

NOTES.

File No. 7-13

FILE HEADING.

Pupil Sub Asst Surgeons

From The Senior Surgeon.

No. 283 Dated 13.1.14 Received 15.1.14

Diary No. 367	Enclos.	Spare Copies.	Serial No. 11

BRIEF ABSTRACT OF LETTER.

Requests orders in the matter of acceptance of the resignation tendered by A. Shiva Rao Sub Asst Surgeon who has, under the circumstances reported, not fulfilled the terms of the covenant executed by him.

NOTES AND ORDERS.

J

The facts of the case have been clearly explained in the Senior Surgeon's letter; but the copy of the opinion of the Govt Advocate referred to in para 4 of the letter has not been received. According to the Covenant the form of which was approved in G.O No. 653-4 Med 20-03 of

NOTES—First Sheet.

GPB—35,000—15 6-12

(2

General and Revenue Secretariat. | Med File No. 7 of 1913-14 | 396

Serial No.

26.7.04, Stipendiary Med. Pupils ~~who fail~~ to are bound to refund the whole Amount of Stipend or pay received by them, if they leave the Service of Govt without Sanction, before the expiry of Seven years after obtaining qualification as Hospl Asst.

In the present case, Shiva Rao is reported to have Served the State from 2.5.08 to 1.5.09 as Passed Med. Pupil and for one year & 4 months from 1.5.09 as Sub Asst Surgeon (Hospl Asst). He refuses to pay the Amount Spent on account of his tuition fees, exam. fees & cost of books supplied to him but agrees to pay only the Amount of Scholarship drawn by him. It is a question whether he is not bound to refund the Amount of pay also received by him for the period he Served the State, according to the terms of the Covenant. Branch III may, if appd, be Consulted as to the interpretation of the words "Stipend or pay received" used in the Covenant.

Certainly not. The pay drawn for services as Hospital Asst. but pay drawn as Passed Medical Pupil may probably be claimed.

Subd for orders.

Adm 51
20.1.14
BS

2. Wrote to the Senior Surgeon first & get the G. Adv opinion.
Adm 21/1

3. (7) Draft- Subd

Adm 51
21.1.14
BS

4. Observe
Adm 21/1

(7)

NOTE—Contn. sheet.

GPB—60,000—7-11-13

G. R. S. 12]

4524

General and Revenue Secretariat.

Med File No. 7 of 1913-4

Serial No.	
	To the Senior Surgeon. Docket No: 7365 of
12	30.1.14
	Requests him to forward a copy of the Govt Advocates opinion referred to in para 4 of Sl 11.
13	From the Senior Surgeon, No 318 dated 6.2.14
	Forwards a copy of the Govt. Advocates' opinion on the possibility of recovering by a civil suit the balance of the money due to Govt. by Sub Assistant Surgeon, A Shivaloo
	Submitted for orders.
	In favour of opinion
	20.2.14
	Dm 24/2
	Submitted
	The term "stipend or pay received" is used in the covenant. ~~The object of~~ and it ordinarily means a ~~regular~~ fixed periodical payment. Therefore cost of books ~~and tuition fees~~ not being fixed periodical payments made cannot be included in the term "stipend". Though it has been the intention of Govt to include in "stipend" the cost of books to be spent upon

Jour 285-13.

NOTE—Contn. sheet.

GPB—60,000—7-11-13

General and Revenue Secretariat.

New File No. 7 of 1913-14

Serial No.

the medical pupil Del-
there is nothing in the
covenant to show that
the pupil when he executed
the covenant was aware of
this intention of Govt.
Moreover in the usual
advertisement that is
yearly published in the
Mysore Gazette calling for
applicants for ~~the~~
medical scholarships it
is stated that a scholarship
of Rs 9 during first year and
Rs 10 during the succeeding
three years will be given as
also their school fees, supply
of books &c. Thus one would
be led to believe that the
stipend refer or pay referred
to in the ~~covenant~~ covenant
does not include the school
fees, cost of books &c. but
includes only the scholarship
paid to him. Therefore
the school fees, ~~and~~ cost of books
&c cannot perhaps be recovered

Page 603 of the Mysore Gazette 1913, Part II for a Specimen advertisement.

NOTE—Contn. sheet.

GPB—69,000—7-11-13

4524

[R. S. 12]

General and Revenue Secretariat.

Med File No. 7 of 1913-14

Serial No.

from the Hospital Asst who breaks the conditions of the covenant by resigning his appointment within seven years.

(48)
2/3/14

I am of opinion that the terms of the deed are in favour of the contention of the Hospl Asst. I cannot agree with the Govt advocate that the intention of the parties must be presumed to be that the total amount spent on his professional education is implied by the word 'stipend'. Considering the circumstances of the case, the Senior Surgeon's recommendation may be accepted.

3/3

P. v IV)
Subd
3.3.14

Draft accordingly
5/3

Draft Sub ℒ sanctioning the Senior Surgeon's recommendation. It may be approved
6-3-14

Bogamunthem
2nd member) approved 12/3.

14/3

NOTE—Contn. sheet.

GPB—85,000—17-6-12.

[R. S. 12]

General and Revenue Secretariat.

Med File No. 7 of 1913.

Serial No.	
14	To Senior Surgeon & Comptr No 8708-9 & 23.3.14 Accords Sanction to write off the accounts the sum of Rs 231-10-- in question

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

D 3967

No. G. 283
Encs. 2

Office of Senior Surgeon, Mysore Govt.,

Dated, Bangalore, 13/11/ 1914.

From Rao Bahadur Dr. T.V.Arumugam Mudaliar
~~P. S. Achyuta Rao, Esquire,~~
Senior Surgeon with the Government of
H. H. the Maharaja of Mysore, Bangalore.

To

K. R. Srinivasa Iyengar, Esq., M.A.,
Secretary to the Government of
H. H. the Maharaja of Mysore, Genl. and Rev. Deptts.,
Bangalore.

Sir,

I have the honor to bring to the notice of Government that one A.Shiva Rao, a stipended medical pupil of this -- State, who entered Service as passed Medical Pupil on 2-5-08 and was duly appointed as a Hospital Assistant of the third Grade on 1st May 1909, has resigned the service under the following circumstances.

2. After serving for about one year and four months, he went on three months' leave without allowances with effect from the 2nd September 1910 and instead of joining duty on the expiry of the leave, sent his resignation with the request that it might be accepted as his circumstances did not permit his coming back to the service and that he would refund the amount of scholarship received by him. A bill as per copy annexed was accordingly prepared and sent to him with the intimation that his resignation would be accepted after he made the payment.

3. In response to the above, however, the Hospital -- Assistant, after some correspondence, refunded only Rs.435-1-7, being the total amount received by him as stipend during the

From

THE SENIOR SURGEON
WITH THE GOVT. OF MYSORE,
Bangalore.

To

THE SECRETARY
TO THE GOVT. OF MYSORE,
G. & R. DEPTTS., BANGALORE.

Dated

Despatched 13/1/14

Received

General No. G. 283
No.

Enclosure No. 2

SUBJECT.

Requesting orders of Govt. in the matter of accepting the resignation of A. Shiva Rao, a Stipended Medical pupil of the State.

the priod of four years he was studying in the Royapuram Medical School. In this office No.765, dated 19th August 1911, he was called upon to refund the balance of Rs.231-10-0 that had been spent by Government on his education. After several reminders and registered notices he at last replied, in his letter dated 1st June 1912, that he had already paid up the amount refundable by him according to clause 2 of the bond executed by him and that nothing more was due.

4. The Government-Advocate who was consulted in the matter was of the opinion that although the literal construction of the words used in the document (a copy of which is enclosed for reference) did support the contention of the defaulter, yet, as the intention of the Government was that the total amount spent on his professional education ought to be recoverable and as the Government was in the habit of affixing the above meaning to the word stipend, the case was such that it would be worthwhile putting it before the Court & obtaining an authoritative ruling on the point involved.

5. My predecessor in office was not, however, willing to experiment in a doubtful matter like this, lest it should lead him to throw good money after bad. I am also of opinion that the terms of the covenant are on the side of the Hospital Assistant and that there is no help for it now but to accept his resignation and write off the balance shown as still due by him.

6. I may add that the total service rendered by the Hospital Assistant (2 years 4 months) to the State bears nearly the same ratio to the total period of 7 years covenanted, as the amount still due by him bears to the total amount spent on his professional education by the Government. The wording of the covenant has since been suitably modified so as to make the whole amount spent on behalf of a stipend holder recoverable from him in case he fails to abide by the conditions thereof.

7. I solicit the orders of Government in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

Senior Surgeon, Mysore Lancers.

Enc. to Sl 11 of med file 7-13 3

Date 12th September 1904.

1. I the undersigned residing at New Field Street, Mangalore, do hereby covenant and agree to serve as an Hospital Assistant under the Government of H.H. the Maharaja of Mysore for a period of (7) seven years from the date of receiving certificate of qualification as Hospital Assistant.

2. I further covenant and agree not to relinquish the service of the said Government without its sanction & to refund the whole amount of stipend or pay received by me, were I to leave the service without such sanction, either before obtaining qualification as Hospital Assistant or for (7) seven years after obtaining the qualification of Hospital Assistant.

3. I further covenant and agree to serve as passed medical pupil after obtaining the qualification as Hospital Assistant, till an appointment as 3rd Class Hospital Assistant is offered to me by the Government.

4. I further covenant and agree to abide by all the -- rules and regulations made or hereafter to be made in respect of stipendiary students both during their precollegiate and collegiate courses.

Sd/- A.Shiva Rao
Medical Pupil

Witnesses:-

1. Sd/- K. Sanjana
Lt.Col., I.M.S.,
Superintendent

2. Sd/- A.Masilamani Moodr., L.M.S.,
Assistant Superintendent.

"Copy"

Senior Surgeon, Mysore Govt.,

Details of expenditure by Mysore Government on account of the Education of A. Shiva Rao who passed out in March 1908 from Rayapuram Medical School.

Encl. to Sl. 11 of med file 7-13

Items	Amount Rs	as	ps	Remarks
Stipend				
1st year from 11-7-04 to end of June 05 (at Rs 9/- a month)	105	1	7	Has drawn stipend from 11-7-04 the date he joined.
2nd year from 1-7-05 to 1-7-06 (at Rs 10/- a month)	120	"	"	
3rd year from 1-7-06 to 1-7-07 (at Rs 10/- a month)	120	"	"	
4th year from 1-7-07 to 1-4-08 (at Rs 10/- a month)	90	"	"	Passed out of School from 1-4-08.
Tuition fees for 4 years at Rs 25/- a year	100	"	"	
Examination fees (for Final Exam. only)	15	"	"	
Books and Instruments for 4 years	116	10	"	
Total Rupees	666	11	7	

Rupees Six hundred and Sixty Six annas eleven and pies Seven only

Copy

Senior Surgeon,
Mysore Govt., Bangalore.

5

G. R. S. 26]

93/1

X 5/1

File No. 743

Serial No. 12

Diary No. of letter replied to 3967

No. 7365
dated 7-B-12
& 30.1.14.

General and Revenue Secretariat

(Rec'd)

the *191* .

To

The Senior Surgeon

Date of issue 30.1.14

Signed by Mr A V Ramanathan

His letter no. C 2838 dtd the 13th January '14 ~~Relas~~ regarding orders in the matter of ~~the~~ acceptance of the resignation tendered by Sub Asst Surgeon A. Shiva Rao.

Has the honour to request the Senior Surgeon to be so good as to forward a copy of the Govt Advocate's opinion referred to in para 4 of the above, ~~He Sanctioned~~

over.

SUBJECT.

93 & 191

6

Received with the Colonial despatch

By order

Mm

Pln 51
21.1.14

Sec'y

List of enclosures.

Copied by

Examined by

GPB—25,000—6-8-11.

7

No. G. 318
Encs. 1

Office of Senior Surgeon, Mysore Govt.

Dated, Bangalore, 6/7-2-1914.

8524

Med 7-13
& 7-13-13
82 no. 13

From

Rao Bahadur T.V.Arumugam Mudaliar Esq., M.B.C.M.,
~~P. S. Achyuta Rao, Esquire,~~
Senior Surgeon with the Government of
H. H. the Maharaja of Mysore, Bangalore.

To

K. R. Srinivasa Iyengar, Esq., M.A.,
Secretary to the Government of
H. H. the Maharaja of Mysore, Genl. and Rev. Deptts.,
Bangalore.

Sir,

As desired in your office docket No.7365/Med 7-13-2, dated, 30-1-1914, I have the honor to forward herewith a copy of the Government Advocate's opinion on the possibility of -- recovering, by a civil suit, the balance of the money due to Government by Sub Assistant Surgeon A.Shiva Rao.

I have the honor to be,

Sir,

Your most obedient servant,

TVArumugam

Senior Surgeon, Mysore Government

7

No. G. 318
Encs. 1

Office of Senior Surgeon, Mysore Govt.

Dated, Bangalore, 6/7 .2. 1914.

D 4524.

Med 7-13
81 20.13

From

Rao Bahadur T.V.Arumugam Mudaliar Esq., M.B.C.M.,
~~P. S. Achyuta Rao, Esquire,~~
Senior Surgeon with the Government of
H. H. the Maharaja of Mysore, Bangalore.

To

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I have the honor to be,

Sir,

Your most obedient servant,

TVArumugam

Senior Surgeon, Mysore Government.

From

THE SENIOR SURGEON
WITH THE GOVT. OF MYSORE,
Bangalore.

To

THE SECRETARY
TO THE GOVT. OF MYSORE,
G. & R. DEPTTS., BANGALORE.

Dated 6.2.14

Despatched 7

Received

General No. G.318
No.

Enclosure No.

SUBJECT.

Forwarding Copy of the Government Advocate's opinion on the possibility of recovering by a civil suit the balance of the money due to Govt. by A. Shiva Rao.

O P I N I O N.

The fundamental rule of interpretation for all instruments is that :-

> "To interpret a deed the expressed intention of the parties must be discovered" in other words "what is the meaning of what the parties to the document have said?" You must have regard not to the presumed intention of the parties but to the meaning of the words which they have used.

2. According to the Century Dictionary the word stipend means " a fixed periodical allowance or payment: settled or fixed pay". The contract of service entered into by Shiva Rao contains the stipulation that he would refund the whole of the amount of stipend received by him if he were to leave the service of Government without sanction. He has now refunded Rs.435-1-7 and contends that the amount represents the whole of the stipend received by him and that he is not liable to refund under his contract anything more. The literal construction of the words used in the document does support his contention. But there can be no doubt that it was the intention of Government that the amount recoverable under the -- agreement was the total amount spent by Government on his professional education. That Government was in the habit of affixing to the words stipend the above meaning appear to be also clear. It may further be noted that the classification made by the Superintendent of Medical School of the total amount spent on the education of the medical pupil into (1) Stipend (2) Tuition fees (3) Examination fees and (4) Books & Instruments is one made for the purpose of giving the details of expenses and not to differentiate stipend from the other items. Government did not mean to draw any such distinction when they remitted money to the Superintendent for and on account of the pupil

3. The following extract from the Madras Medical Code may also be useful in determining the extent of the liability of stipendiary medical pupils failing to fulfil the conditions of their bonds. "In the case of those students who receive medical instructions wholly or in part at the expense of the State for the purpose of entering Government service on qualifying as Hospital Assistants a bond in C.M. F. No.41 should be demanded at the time when they commence their professional studies. Instead of taking a bond from the students themselves, the parent or guardian, or a friend of the student should be required in each case to give -- security

(a) that the scholarship holder or assisted student will complete his course of study;

(b) that he will at the end of his course, execute, if required to enter Government employment, an agreement in C.M.F.No.43. The amount recoverable under the security bond in the event of the student relinquishing his studies before taking his diploma, or on his refusing to enter Government service after he has taken it, will be the amount spent by Government on his professional education at the time when he relinquishes his studies or at the time when he refuses to enter Government service as the case may be".

4. The nature of the present case is such that in my opinion it is worth while putting the case before the Court and taking an authoritative ruling on the point involved.

---ooOoo---

" Copy "

Senior Surgeon, Mysore Govt.

G.R.S. 28]

17/3

File No. 7–13
Serial No. 14

Diary No. of letter replied to 4524

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
(Medl)

the 191

READ

Letter No. G. 283 dated 13.1.1914, from the S. Surgeon, reporting that A. Shiva Rao, a Stipendiary Medical pupil of the State, who entered Service on 2.5.1908, has resigned the Service with effect from the 2.9.10, that he has refunded only Rs 435–1–7½ the Stipend actually received by him, and recommending that a Sum of Rs 231–10–0, spent on account of his

over.

Date of issue 22.3.14

Signed by Mr. A.V. Ramanathaiya

ORDER THEREON—No.

SUBJECT.

11

his fees, books instruments etc
be written off the accounts as
irrecoverable; and further Stating that the
wording of the covenant executed by musical pupils
has now been altered so as to include
the recovery of the entire charges
in ~~Cycle~~ cases in future.

Order thereon No 8708-9
Med 7-13
dated 23.3.14

The Sum of Rs. 231-10-0 due
from A Shiva Rao on account
of books etc is written off the
accounts as recommended by
The Senior Surgeon

WW
14/3

Adm
13/3 for Secy.
B.S.

To The Senior Surgeon
The Comptroller

GPB—20,000—2-10-11

AW
8/4/14